IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

WRIT PETITION NO. 2766 OF 2006

Namdeo V. Sanap .....Petitioners.

vs.

Narayan S. Amruskar .....Respondents.

Ms.Gauri Godse for the petitioners.

Teja Katdare for the respondents.

CORAM: S.C.DHARMADHIKARI, J.

DATED: 9th March, 2007.

P.C.

1. By this petition, under Article 227 of the Constitution of India, the Petitioner Original Defendant has challenged the order dated 24.7.2005 passed below, Exhibit 16 in Civil Appeal No. 26 of 2003.

2. By this Application (Exhibit 16) the Petitioner Appellant sought stay of further

proceedings in Civil Appeal No. 26 of 2003. The stay was sought on the ground that the Application preferred by the Petitioner before the Deputy Director Land Records, Mumbai is pending and considering that the issue of consolidation of the lands would be gone into by that Authority until the Deputy Director decides the same, further proceedings in the Appeal may be stayed.

3. The lower Appellate Court has observed that the suit of the Respondent Plaintiff was for removal of encroachment and possession of the suit property. The Learned Judge has observed that similar application was made, during the pendency of the suit but it was rejected by the Trial Court. That order was challenged by filing a Revision Application in this court and even this court rejected the Application preferred by the petitioner Original Defendant/Appellant.

4. I have heard Ms.Godse appearing for the petitioner and Mr.Katdare for the respondents. I have also perused the order passed by this court

in Civil Revision Application bearing No. 1680 of 2002 dated 10.10.2002.

5. For the reasons that are set out in the order passed by this Court and finding that the reliance placed thereon by the lower Appellate court is proper, I am of the view that this is not a fit case for interference under Article 227 of the Constitution of India. Petition is therefore summarily dismissed. However, considering that the Application before the Deputy Director of Land Records is pending since 1997 and that interest of both sides would be sufficiently protected, if the same is disposed off expeditiously, it is directed that the Deputy Director of Land Records, Mumbai, before whom the said Application is pending, shall decide the same as expeditiously as possible and within a period of two months from the date of the receipt of a copy of this order. Needless to state that the application would be dealt with and decided by the Deputy Director in accordance with law.

. C.C. expedited.

sd/-

(S.C.Dharmadhikari, J)